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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,516	10/17/2001	Steven A. Shaya	JJCC-0003	7651

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/981,516	Applicant(s) SHAYA ET AL.	
	Examiner Marissa Thein	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-3-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 2, 2006 has been entered.

Response to Amendment

Applicants' "Request for Continued Examination" filed on March 2, 2006 has been considered.

Applicants' response by virtue of amending claim 103 has overcome the Examiner's rejection of such claims under 35 USC § 112, second paragraph.

Claims 1, 9-20, 22-23, and 103 have been amended. Claims 1-29 and 103 remain pending in this application.

Information Disclosure Statement

Applicants' remarks pertaining to the Supplemental Information Disclosure Statement, specifically, references number 119-122 on page 5 has been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 4, 8, and 13-27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,029,195 to Herz.

Regarding claims 1 and 103, Herz discloses a method and a computer readable medium for formulating individualized product recommendation comprising: receiving a first set of data from a consumer regarding a target substrate that includes a requirement to be addressed by a product (target profile col. 4, lines 49-54); generating a set of individualized product recommendation for the consumer from a plurality of products within a product category with the assistance of one or more computing devices, the generating (abstract); feeding the first set of data as inputs into an intelligent performance-based product recommendation engine (col. 4, lines 58-61; col. 5, lines 14-16; col. 7, lines 9-16; col. 26, lines 1-5); classifying the consumer, based on the inputs, in a population of consumers who previously used a product in the product category and who are substantially similar to the consumer (col. 4, lines 64-67; col. 5, lines 30-36; col. 6, lines 54-58; col. 12, lines 26-31; col. 24, lines 42-67); determining, based on the inputs and the classification of the consumer, a likelihood that the products in the product category will address the requirement with a predefined level of success when used in connection with the target substrate (col. 5, lines 14-20; Figure 12; col. 6, lines 38-58; col. 7, lines 6-16; col. 7, lines 63-66); and selecting a set of products from the product category having a predefined likelihood of successfully

addressing the requirements, the selected set of products comprising the set of individualized product recommendations (col. 5, lines 14-20; Figure 12; col. 7, lines 6-16; col. 8, lines 3-5).

Regarding claims 2-4 and 8, Herz discloses receiving a concern about the substrate (col. 12, lines 27-30; col. 12, lines 33-38; col. 28, lines 55-63); severity of the concern (col. 12, lines 27-30; col. 12, lines 33-38; col. 28, lines 55-63); and importance of the concern (col. 12, lines 27-30; col. 12, lines 33-38; col. 28, lines 55-63); and a third set of data from the consumer comprising personal profile information about the consumer (col. 4, lines 54-55).

Regarding claims 13-17, Herz discloses producing a first of products and a scored predicted and performance utility; producing a first list of top-N products and a scored predicted and performance; and a first list of products and a purchase price (col. 1, lines 27-32; . Herz discloses a system that evaluates the target profiles against the user's target profile interest summaries to generate a customer-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target object (col. 1, lines 27-32; col. 67, lines 54-62; col. 22, lines 29-44).

Regarding claims 18-22, Herz discloses generating ancillary information from the product recommendation engine inputs regarding effects of at least of the products and the condition of the target substrate relative to a designated population of consumers (col. 1, lines 27-34; col. 4, lines 64-col.5, line 5; col. 24, lines 40-col.25, line 10); and

communicating the set of individualized product recommendations to the consumer (col. 1, lines 27-34); and web page (col. 8, lines 18-21).

Regarding claims 23-27, Herz discloses the receiving feedback from the consumer regarding use of a product to treat the target substrate; feedback from the consumer regarding use of previously recommended product; receiving preference data regarding the product; performance data; and retraining the product recommending engine based on the feedback (col. 6, lines 39-58; col. 7, lines 4-6; col. 18, line 9-col. 19, line 7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,029,195 to Herz in view of U.S. Patent No. 6,412,021 to Bieganski.

Regarding claims 5-7, Herz substantially disclose the claimed invention, however, it does not disclose comprising receiving a second set of data from the consumer, the second set comprising of historical product data; and the historical data comprises receiving performance data for products and preference data for products. Herz discloses past user behavior (col. 48, lines 49-51).

Bieganski, on the other hand, teaches receiving a second set of data from the consumer, the second set comprising of historical product data; the historical data comprises receiving performance data for products and preference data for products (col. 8, lines 15-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Herz, to include receiving a second set of data from the consumer, the second set comprising of historical product data; and the historical data comprises receiving performance data for products and preference data for products, as taught by Bieganski, in order to provide accurate recommendations (Bieganski, col. 5, lines 3-4).

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,029,195 to Herz in view of U.S. Patent No. 6,438,579 to Hosken.

Regarding claims 9-12, Herz substantially discloses the claimed invention, however, it does not explicitly disclose the particular data processing portion (a neural network portion, a collaborative filter portion, a content-based portion, and cascaded content-based filter. Herz discloses a system that evaluates the target profiles against the user's target profile interest summaries to generate a customer-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target object, which were automatically selected by the system from the plethora target objects that are profiled on the electronic media (col. 1, lines 27-34). The ability to measure the similarity of provides

describing target objects and a user's interest can be done in two ways filtering and browsing (col. 7, lines 52-54).

Hosken, on the other hand, teaches the particular data processing portion a neural network portion, a collaborative filter portion, a content-based portion, and cascaded content-based filter (col. 1, lines 47-48; col. 2, lines 23-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Herz, to include a neural network portion, a collaborative filter portion, a content-based portion, and cascaded content-based filter, as taught by Hosken, in order to provide recommendations that are particularly tailored to the personalized interests of a user (Hosken, col. 2, lines 65-68).

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,029,195 to Herz in view of U.S. Patent No.6,782,307 to Wilmott et al. Regarding claims 28-29, Herz substantially discloses the claimed invention, however, it does not explicitly disclosing receiving a first set of data about the consumer's skin and the generation a set of individualized product recommendation for the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products; and payment. Herz discloses the system can be used in applications which can include cosmetics as well as informal solution to problems of individuals based on their unique life and professional experiences and encounters (col. 85, lines 30-32).

Wilmott, on the other hand, teaches receiving a first set of data about the consumer's skin and the generation a set of individualized product recommendation for

the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products (Figures X3A - X3C; Figure X2); and payment (col. 9, line 46; col. 9, line 60).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Herz, to include a first set of data about the consumer's skin and the generation a set of individualized product recommendation for the consumer step comprises generating a set of individualized product recommendation from a plurality of skin-care products and payment, as taught by Wilmott, in order to a method that provides a customized cosmetic or pharmaceutical product (Wilmott, col. 1, lines 50-51) and accept payment at a point-of sale location (Wilmott, col. 1, lines 59; col. 9, lines 56-60).

Response to Arguments

Applicant's arguments with respect to claims 1-19 and 103 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

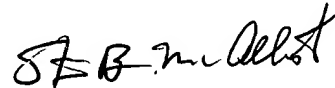
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mtot
May 14, 2006


STEVE B. MCALLISTER
PRIMARY EXAMINER